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## State Water Resources Control Board

**TO:** Eileen Sobeck  
Executive Director  
**State Water Resources Control Board**

**FROM:** Erik Ekdahl  
Deputy Director  
**Division of Water Rights**

**DATE:**

**SUBJECT:** TRANSFER OF PETITIONS ON WATER RIGHT LICENSES 1062 AND 4060 (APPLICATIONS 1061 AND 14494) TO THE ADMINISTRATIVE HEARINGS OFFICE

The Division of Water Rights (Division) proposes to transfer pending petitions on Licenses 1062 and 4060 (Applications 1061 and 14494, respectively) to the Administrative Hearings Office (AHO) for resolution. As described below, the petitioners, County of Sacramento and Sacramento County Water Agency (Sacramento County), are unable to resolve outstanding protests filed by the United States Bureau of Reclamation (USBR) and the California Department of Water Resources (DWR). Given the significant number and complexity of pending petitions before the Division, these two petitions would be aided by the AHO's role in ensuring water rights matters are resolved in a timely manner.

### Licenses 1062 and 4060

The County of Sacramento and Sacramento County Water Agency (Sacramento County) purchased water right Licenses 1062 and 4060, which serves private property surrounding Sacramento International Airport (SIA). Both water rights currently allow diversions from the Sacramento River for irrigation purposes. Specifically, License 1062 (priority date of August 28, 1918) allows for direct diversion of up to 7.44 cfs from the Sacramento River from about April 1 through October 1 of each year (up to 2,715.3 afa) for irrigation use on about 715 acres alongside the Sacramento River near the SIA; License 4060 (priority date of September 20, 1951) allows for direct diversion of up to 1.57 cfs from the Sacramento River from May 1 to October 1 (up to 479.6 afa) for irrigation use on about 123 acres alongside the Sacramento River near the SIA. Sacramento County indicated that it leased the property associated with the water rights to farmers until about 2006. There have been no diversions under the Licenses since at least 2006. Agricultural practices in the area were stopped due to attraction of birds near flight paths associated with SIA. Per the Division's most recent site inspection, there are no diversion pumps at the points of diversion.

### Petitions for Change in Point of Diversion, Place of Use, and Purpose of Use

On March 12, 2015, Sacramento County filed petitions to change Licenses 1062 and 4060. With the petitions, Sacramento County requested the addition of a new point of diversion, new place of use, and new purpose of use to Licenses 1062 and 4060. Specifically, Sacramento County proposed to move the points of diversion of Licenses 1062 and 4060 approximately 20 miles downstream to Sacramento County's Freeport diversion facility. Sacramento County also requested to add municipal and industrial uses as purposes of use, and Sacramento County Water Agency Zone 40 to the place of use of the licenses.

### Protest on Petitions

The petitions were publicly noticed in November 2018 and were protested by USBR and DWR. Both USBR and DWR claim that diversions under the licenses have been forfeited through lack of use and claim potential injury to the Central Valley Project and the State Water Project if the petitions are approved. The licenses do not have term 91. Sacramento County has been negotiating with the USBR and DWR since early 2019 and there has been no resolution. Sacramento County recently provided a letter to the Division indicating they were at an impasse in protest resolution and requested the Division intervene to resolve the protests.

### Proceeding before the Administrative Hearing Office

In addition to resolving the issues that prevent Division staff from processing these petitions in a timely manner, staff also believe it would be helpful for the hearing to resolve what factors or obligations should be considered by Division staff when processing petitions where the subject rights may be subject to forfeiture. Referring this matter to the AHO will provide a neutral, fair, and efficient forum for resolving issues that may arise during future water rights proceedings. Division staff may also prepare a notice of proposed revocation for consideration during the hearing, pending staff discussions with the AHO regarding the scope of the hearing.

If you have any questions regarding this memo, please contact Sam Boland-Brien, Chief of the Petitions, Licensing, and Registrations Section at 916-322-6797 or by email at [Samuel.Boland-Brien@waterboards.ca.gov](mailto:Samuel.Boland-Brien@waterboards.ca.gov).

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